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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION, MDL No. 1791	MDL Docket No. 06-1791 VRW
	Relates to Case Nos.
This Document Relates To:	
Robert Clayton, et al. v. AT&T Communications of the Southwest, Inc., et al., (W.D.Mo.)	07-cv-1187-VRW
USA v. Steve Gaw, et al., (E.D.Mo.)	07-cv-1242-VRW
USA v. Kurt Adams, et al., (D. Me.)	07-cv-1323-VRW
USA v. Zulima V. Farber, et al., (D.N.J.)	07-cv-1324-VRW
USA v. Anthony J. Palermino, et al., (D.Ct.)	07-cv-1326-VRW
USA v. James Volz, et al., (D.Vt.)	(N.D. Cal. Number not yet assigned to Vermont case)
	STATE OFFICIALS' ADMINISTRATIVE MOTION FOR SCHEDULING ORDER
	[CIVIL L.R. 7-11]
	Courtroom: 6, 17th Floor
	Judge: The Hon. Vaughn R. Walker

Dockets.Justia.com

Pursuant to Local Rule 7-11, the state officials and interveners in Robert Clayton, et al. v. AT&T Communications of the Southwest, Inc., et al., (N.D. Cal. No. C-07-1187-VRW); USA v. Steve Gaw, et al., (N.D. Cal. No. C-07-1242-VRW); USA v. Kurt Adams, et al., (N.D. Cal. No. C-07-1323-VRW); USA v. Zulima V. Farber, et al., (N.D. Cal. No. C-07-1324-VRW); USA v. Anthony J. Palermino, et al., (N.D. Cal. No. C-07-1326-VRW); and USA v. James Volz, et al., (N.D. Cal. C-07-0000-VRW) ("the State Cases"), hereby make this administrative motion respectfully requesting this Court to issue a scheduling order (1) setting the date for filing reply briefs to dispositive motions already pending in the Connecticut (USA v. Palermino) and Vermont (USA v. Volz) cases, (2) setting the date for supplementation with Ninth Circuit law, as necessary, of already pending dispositive motions and briefs in all six of the above-captioned cases, and (3) setting a date for oral argument on the dispositive motions already pending in all six of the above-captioned cases.

Additionally, the pending interveners in the Maine (USA v. Adams), Connecticut (USA v. Palermino) and Vermont (USA v. Volz)cases respectfully request this Court to rule at its earliest convenience on their fully briefed motions to intervene.

I. Background

The State Cases were transferred to this Court on February 15, 2007 by order of the Judicial Panel on Multidistrict Litigation. Well before the date of this transfer order, cross motions for dismissal and for summary judgment had been filed and briefed in each of these cases and, with the exception of reply briefs yet to be filed in the Connecticut and Vermont cases, were ripe for determination.[1] All of these cases involve state

[1] All briefing was concluded in the Missouri Western District case on September 27, 2006; briefing was concluded in the Missouri Eastern District case on October 20, 2006; briefing was concluded in the Maine

officials, acting in their official capacities regarding public utilities subject to their jurisdiction. None of these cases involve private plaintiffs' class actions. Therefore, neither the State Cases nor the private plaintiffs' class action cases currently pending before this Court will be served by coordinated or consolidated discovery. Additionally, the resolution of these six cases will not be served by repetitive briefing. Consequently, the state officials and interveners respectfully submit that these State Cases should proceed expeditiously on a track separate from but concurrent with the track set for the private plaintiffs' class actions.

These state officials and interveners have already been in contact with Co-Lead Coordinating Counsel for the private plaintiffs' class action cases, and also with counsel for the Department of Justice, in an attempt to coordinate a proposed scheduling order for the State Cases. These state officials and interveners and the Department of Justice did not reach agreement to permit a stipulation. On the other hand, Co-Lead Coordinating Counsel for the private plaintiffs' class action cases do not object to the following proposed schedule.

II. Proposed Schedule

March 30, 2007	Parties file reply briefs to dispositive motions already pending in Connecticut and Vermont. All movants file supplemental briefs on dispositive motions already pending in the State Cases. Said briefs shall be limited to addressing legal issues arising from the transfer of the State Cases to the Northern District of California, including choice of law issues and issues relating to relevant Ninth Circuit precedent that were not previously briefed.

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case on January 8, 2007; briefing was concluded in the New Jersey case on November 13, 2006; only reply briefs are yet to be filed in the Connecticut case and those were due to be filed on February 26, 2007; and only reply briefs are yet to be filed in the Vermont case and those were due to be filed on March 13, 2007.

April 30, 2007	All respondents file responses to the supplemental briefs ordered above. Said responses shall be limited as described above for the supplemental briefs.
May __, 2007 or June__, 2007	Oral argument on all dispositive motions already pending in State Cases. (The state officials and interveners respectfully request oral argument on these motions, the date to be set at the Court's convenience.)

III. Conclusion

For the reasons stated above, the state officials and interveners respectfully request that this Court issue an Order setting forth the above schedule for briefing and oral argument on the dispositive motions already pending in all six of these cases. A Proposed Order is attached hereto for the Court's consideration.

DATED: March 9, 2007

Respectfully submitted,

/s/ Peggy A. Whipple

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DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, PEGGY A. WHIPPLE, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from each of the other signatories listed below.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on March 9, 2007, at Jefferson City, Missouri.

/s/ Peggy A. Whipple
Peggy A. Whipple

Dated: March 9, 2007.

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